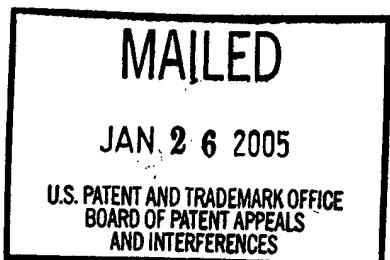


The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 28

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES



Ex parte GEORGE KING

Appeal No. 2004-1579
Application No. 09/496,549

ON BRIEF

Before HAIRSTON, CRAWFORD, and SAADAT, Administrative Patent Judges.
CRAWFORD, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 32 to 40, which are all of the claims pending in this application. Claims 1 to 31 have been canceled.

The appellant's invention relates to a method and device for communicating data from a source device to a destination device without encumbering the switching network of the central office (specification, p. 1). A copy of the claims under appeal is set forth in the appendix to the appellant's brief.

Appeal No. 2004-1579
Application No. 09/496,549

The prior art

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

McHale 5,668,857 Sep. 16, 1997

The rejections

Claims 32 to 40 stand rejected under 35 U.S.C. § 102 as being anticipated by McHale.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the answer (Paper No. 21, mailed Jan. 28, 2003) for the examiner's complete reasoning in support of the rejection, and to the brief (Paper No. 20, filed Jan. 8, 2003) and reply brief (Paper No. 22, filed Mar. 31, 2003) for the appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

The examiner has rejected claims 32 to 40 under 35 U.S.C. § 102 because the examiner is of the view that McHale discloses each and every element recited in each of claims 32 to 40. Claim 32, from which claims 33 to 37 depend, recites a method for routing a digital data call to a destination which includes the step of acquiring a digital data call at a termination unit. Claim 38, from which claims 39 and 40 depend, includes similar language as it relates to an apparatus for routing a digital data call to a destination. The examiner is of the view that the splitter 50 disclosed in McHale and depicted in figure 1 is a termination unit as recited in the claims.

The appellant argues that the McHale splitter 50 is not a termination unit, therefore, this case hinges on whether the McHale splitter 50 is a termination unit as recited in the claims.

We have examined the specification and find no special definition for a termination unit therein. In addition, the appellant has not directed our attention to evidence that establishes that the term "termination unit" has a special meaning to persons skilled in the art. Therefore, we will give the term "termination unit" its broadest reasonable interpretation consistent with the specification. In re Sneed, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983).

In our view, when the term "termination unit" is given its broadest reasonable interpretation, it means a unit wherein a line terminates. Indeed, the appellant's own

Appeal No. 2004-1579
Application No. 09/496,549

definition of a "termination unit" i.e., that it is a point where the line physically terminates is consistent with our interpretation of the term (see brief at page 2).

The McHale subscriber line 16 terminates at the splitter 50 and a data line 54 and a phone line 52 emerge therefrom (see figure 1). Appellant has not explained with any specificity why the subscriber line 16 does not physically terminate at the splitter 50. Therefore, in our view, the splitter 50 is a termination unit as broadly claimed.

In view of the foregoing, the decision of the examiner is affirmed.

Appeal No. 2004-1579
Application No. 09/496,549

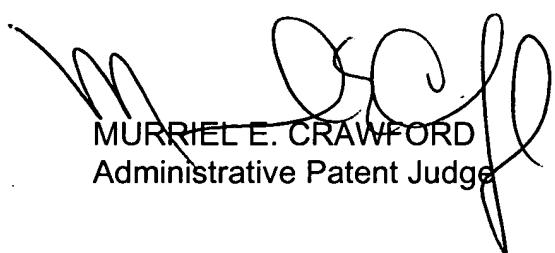
No time period for taking any subsequent action in connection with this appeal
may be extended under 37 CFR § 1.136(a).

AFFIRMED



KENNETH W. HAIRSTON

Administrative Patent Judge



MURRIEL E. CRAWFORD

Administrative Patent Judge



MAHSHID SAADAT

Administrative Patent Judge

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Appeal No. 2004-1579
Application No. 09/496,549

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